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2013 IL App (3d) 120730-U

Order filed July 26, 2013

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2013

|                                      |                                 |
|--------------------------------------|---------------------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, | ) Appeal from the Circuit Court |
|                                      | ) of the 12th Judicial Circuit, |
| Plaintiff-Appellee,                  | ) Will County, Illinois,        |
|                                      | )                               |
| v.                                   | ) Appeal No. 3-12-0730          |
|                                      | ) Circuit No. 11-CF-1560        |
| JOHN VIDITO,                         | )                               |
|                                      | ) Honorable                     |
| Defendant-Appellant.                 | ) Richard C. Schoenstedt,       |
|                                      | ) Judge, Presiding.             |

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JUSTICE LYTTON delivered the judgment of the court.  
Justices McDade and Schmidt concurred in the judgment.

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**ORDER**

¶ 1 *Held:* The trial court did not err when it concluded that the evidence was sufficient to convict defendant of unlawful use of a weapon by a felon.

¶ 2 Following a bench trial, defendant, John Vidito, was convicted of unlawful use of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2010)). Defendant appeals, arguing that the trial court erred in finding him guilty because the State failed to prove the *corpus delicti*.

¶ 3

FACTS

¶ 4 Defendant was charged with unlawful use of a weapon by a felon (720 ILCS 5/24-1.1(a) (West 2010)). The indictment alleged that defendant, who had previously been convicted of a felony, knowingly possessed a firearm on or about July 17, 2011. The cause proceeded to a bench trial.

¶ 5 At trial, defendant's brother, Daniel Vidito, testified that on July 20, 2011, a search warrant was executed at his residence. During the search, police officers found two firearms in a safe located in his bedroom. Daniel testified that he had purchased one of the firearms, a 9-mm. handgun, from defendant. He also stated that defendant knew the combination to the safe.

¶ 6 Officer Matt Lehmann testified that he questioned defendant regarding his possession of a firearm. During the questioning, defendant informed him that he had purchased a 9-mm. handgun from a black male known as "Shaq" on either July 17 or 18. He identified the 9-mm. handgun taken from Daniel's safe as the gun he had purchased, and stated that he had given the gun to Daniel for protection. Defendant further informed Lehmann that he was a convicted felon and was not supposed to possess any firearms. Following the interrogation, defendant provided a written statement admitting to his purchase of the firearm.

¶ 7 At the conclusion of the trial, the court found that defendant had possessed the 9-mm. handgun and was therefore guilty of the offense. Defendant was sentenced to two years and six months in prison. Defendant appeals.

¶ 8 ANALYSIS

¶ 9 Defendant argues that the trial court erred in finding him guilty of unlawful use of a weapon by a felon. Specifically, defendant claims that the State failed to prove the *corpus delicti* of the crime. Defendant's contention is a challenge to the sufficiency of the evidence. *People v. Sargent*,

239 Ill. 2d 166 (2010). When presented with a challenge to the sufficiency of the evidence, it is not the function of this court to retry defendant; rather, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *People v. Collins*, 106 Ill. 2d 237 (1985).

¶ 10 Under Illinois law, proof of an offense requires proof of two distinct propositions or facts beyond a reasonable doubt: (1) that a crime occurred, *i.e.*, the *corpus delicti*; and (2) that the crime was committed by the person charged. *Sargent*, 239 Ill. 2d 166. While a defendant's confession may be integral to proving the *corpus delicti*, it is well established that proof of the *corpus delicti* may not rest exclusively on the defendant's extrajudicial confession, admission, or other statement. *Id.* Even though the *corpus delicti* rule requires independent evidence, that evidence need not be so strong that it alone proves the commission of the offense beyond a reasonable doubt. *People v. Lara*, 2012 IL 112370. In fact, to be sufficient, the independent evidence need only correspond with the circumstances recited in the confession and tend to connect the defendant with the crime. *Id.* Moreover, the independent evidence does not need to precisely align with the details of the confession on any particular element of the charged offense. *Id.*

¶ 11 Here, evidence established that defendant confessed to the crime. Lehmann testified that defendant told him that he had purchased a gun on July 17 or 18. Defendant identified the gun taken from his brother's safe as the gun he had purchased, and admitted that he had given the gun to his brother. Defendant further confirmed that he was a convicted felon and was legally prohibited from possessing a firearm. This confession was corroborated by defendant's brother, who testified that he bought the gun from defendant, and by the discovery of the gun in the safe. That evidence tends

to show that defendant did in fact commit the crime charged and is therefore sufficient independent evidence to prove the *corpus delicti*. Thus, we conclude that defendant was proved guilty of unlawful use of a firearm by a felon.

¶ 12

#### CONCLUSION

¶ 13 The judgment of the circuit court of Will County is affirmed.

¶ 14 Affirmed.